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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF ARIZONA
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10 Laraine Evans,

11 Plaintiff,

12 vs.

13 Maricopa County Special Health Care
14 District, et al.,

15 Defendants.

No. CV 12-01089-PHX-NVW

ORDER

16 Before the Court is the Motion to Dismiss by the Maricopa County Special Health
17 Care District dba Maricopa Integrated Health Systems (“SHCD”) (Doc. 5).

18 A complaint must contain “a short and plain statement of the claim showing that
19 the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The complaint must contain
20 “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on
21 its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v.*
22 *Twombly*, 550 U.S. 544, 570 (2007)). A plaintiff must allege facts sufficient “to raise a
23 right to relief above the speculative level.” *Twombly*, 550 U.S. at 555. “Each allegation
24 must be simple, concise, and direct.” Fed. R. Civ. P. 8(d)(1).

25 A claim must be stated clearly enough to provide each defendant fair opportunity
26 to frame a responsive pleading. *McHenry v. Renne*, 84 F.3d 1172, 1176 (9th Cir. 1996).
27 “Something labeled a complaint . . . , yet without simplicity, conciseness and clarity as to
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1 whom plaintiffs are suing for what wrongs, fails to perform the essential functions of a
2 complaint.” *Id.* at 1180.

3 The Complaint in this case fails to meet the standard set by Fed. R. Civ. P. 8
4 because it does not clearly identify whom Plaintiff is suing for what wrongs. The caption
5 naming SHCD, “COBRA Administrator,” and fictitious defendants is punctuated with a
6 comma separating SHCD and “COBRA Administrator” and a semicolon separating those
7 names from the fictitious defendants, which indicates that SHCD and “COBRA
8 Administrator” are not independent entities. Further, no summons was issued to
9 “COBRA Administrator,” nor has proof of service on “COBRA Administrator” been
10 filed even though the Complaint was filed more than 120 days ago. But Plaintiff’s
11 response to the motion to dismiss contends that SHCD lacks standing to seek dismissal of
12 a co-defendant, the COBRA Administrator, as though “COBRA Administrator” is a
13 separate defendant.

14 Adding to the confusion, the Complaint states, “Collectively, [SHCD] and
15 COBRA Administrator are referred to interchangeably herein as Defendants.” The
16 Complaint alleges “abuse, harassment, and discrimination by Defendants”; “bullying,
17 ridicule, and retaliation by Defendant and [Plaintiff’s] co-workers”; “Defendant and/or
18 COBRA Administrator failed to provide Ms. Evans with any information regarding
19 election of continuation of group insurance benefits”; “harassment Ms. Evans endured by
20 Defendant was so frequent or severe that it created a hostile or offensive work
21 environment”; “While employed by Defendants, Ms. Evans was harassed, intimidated,
22 and forced to work in conditions where patients’ rights and safety were being
23 jeopardized”; “a direct and proximate result of Defendant’s refusal to reasonably
24 accommodate Ms. Evans”; etc. The Complaint does not clearly identify which Defendant
25 allegedly committed which acts.

26 Moreover, the Complaint does not provide each Defendant with notice of what
27 they allegedly did wrong. It alleges that Plaintiff was “the victim of pervasive and severe
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1 harassment,” but not whether that was related to her disability or to her reporting her
2 concerns about patient safety. Count I, against “All Defendants,” is titled “Disability
3 Discrimination and Harassment,” but does not allege discrimination or harassment on the
4 basis of disability. Instead, it alleges, “On a systemic, severe, and pervasive basis during
5 her employment, Ms. Evans was harassed, intimidated, and forced to work in conditions
6 where patients’ rights and safety were being jeopardized.” Count II, against “All
7 Defendants,” is titled “Disability Retaliation” and alleges she was terminated because she
8 requested unpaid leave and she had submitted a complaint to the Nursing Board. But
9 Count III, against SHCD, is titled “Whistleblower Retaliation” and alleges she was
10 terminated because she reported employees’ disregard of patient health plans to the state
11 Nursing Board. Count V, against SHCD, is titled “Hostile Work Environment,” but does
12 not allege that “the intimidation, ridicule, and insult” were related to her disability or any
13 other legal basis for a cause of action.

14 Finally, the Complaint alleges that Plaintiff was informed that her unpaid leave
15 under the Family Medical Leave Act would end on July 20, 2011, and she must submit
16 additional documentation regarding her health restrictions to be considered for further
17 unpaid leave. It alleges that her physician was unable to provide the additional
18 documentation and ordered Plaintiff not to return to work for the next six months. In her
19 EEOC Charge of Discrimination, Plaintiff stated that on August 10, 2011, she received
20 notice of SHCD’s intent to terminate her employment. The Complaint alleges that on
21 August 17, 2011, Plaintiff requested unpaid leave, and on August 18, 2011, her
22 employment was terminated because she was unable to perform the essential functions of
23 her position. As currently pled, Plaintiff’s factual allegations imply that she quit her job,
24 not that she was terminated.

25 Because leave to amend should be freely given “when justice so requires,” Fed. R.
26 Civ. P. 15(a)(2), Plaintiff will be given opportunity to amend the Complaint to cure the
27 pleading deficiencies identified by the Court and by SHCD.
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IT IS THEREFORE ORDERED that the Motion to Dismiss by the Maricopa County Special Health Care District dba Maricopa Integrated Health Systems (Doc. 5) is granted under Fed. R. Civ. P. 8.

IT IS FURTHER ORDERED that Plaintiff may file an amended complaint by September 7, 2012. If Plaintiff does not file an amended complaint by September 7, 2012, the Clerk will terminate this case without further notice to Plaintiff.

Dated this 23rd day of August, 2012.



Neil V. Wake
United States District Judge